

107-53

copy in 2495

NEW HAMPSHIRE LAW LIBRARY

SEP 03 1998

1953

Apr. 14

CONCORD, N.H.

Major General Charles F. Bowen
The Adjutant General
State House

Dear Sir:

You have recently drawn our attention to R. L. c. 73, s. 29 as amended, and have inquired if a resident of this State who has served as a member of the National Guard for more than 90 days during the current Korean Conflict and who has been honorably discharged from the National Guard, is entitled to the tax exemption provided by that statute. You advise that all service performed was under state control; that is, neither the individual nor the National Guard unit in which he served was, during the period in question, in federal service but was entirely under state control. Your inquiry arises because of the language of the statute cited which grants the exemption to the residents of the state who have served "in the armed forces of the United States" during the present conflict, and on account of the suggestion that the National Guard may be deemed a part of the armed forces of the United States. We answer your inquiry in the negative.

Laws granting tax exemptions to residents of the State who served in the various wars have been upon our statute books for many years. See, e.g. Laws 1971, c. 13. The condition of eligibility has been, in general, "[service] for [a stated time] in any war in which the United States has been engaged and [receipt of] an honorable discharge from the service of the United States in such war." See, e.g. P. L. c. 60, s. 26; R. L. c. 73, s. 29 prior to amendment.

In 1947 for the first time, the condition of eligibility was stated: "[service] for not less than 90 days in the armed forces of the United States in any war in which the United States has been engaged [which service was] terminated under conditions other than dishonorable